

JULIE AND KEVIN D.
Appellants

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 09-39

OPINION

In this appeal, Appellants challenge the decision of the Anne Arundel County Board of Education (local board) denying their request for an out of area transfer for their daughter to attend Jacobsville Elementary School (Jacobsville) instead of Sunset Elementary School (Sunset).

FACTUAL BACKGROUND

Appellants requested that their daughter, A.D., be granted an out of area transfer to begin kindergarten at Jacobsville for the 2009-2010 school year. (Exh.1). Appellants requested the transfer so that A.D. could attend the same school as her brother, who has attended Jacobsville as a transfer student since he began kindergarten in the fall of 2006. (Exh.2). Appellants received a transfer for their son to attend Jacobsville when it was not closed to out of area transfers. The Superintendent's Designee denied the request because Jacobsville is now closed to new out of area transfer requests due to capacity issues. (Exh.3).

On appeal, the local board conducted an evidentiary hearing. Julie D. explained during the hearing that she would like both her children to attend Jacobsville so that they can go to the same before and after school care together. (T.9-10, 28-29). The local board denied Appellants' request for the transfer because Jacobsville is above 90% of its State-rated capacity and is considered a closed school. (Local Board Decision). This appeal to the State Board followed.

STANDARD OF REVIEW

In reviewing student transfer cases, the State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable or illegal. COMAR 13A.01.05.05. See *Breads v. Bd. of Educ. of Montgomery County*, 7 Ops. MSBE 507 (1997).

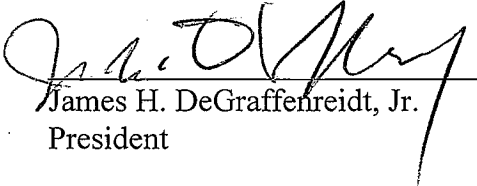
ANALYSIS


Anne Arundel County Public Schools considers school capacity as a factor in its out of

area transfer decisions. (T.12-14, 21, 24). Transfers into a closed school, a school that is at 90% or more of its State-rated capacity, are restricted. (JAB-RA.C.1.j) This is done to limit crowded conditions that may impact the quality of instruction. (Local Board Decision). At the time of Appellants' transfer request, Jacobsville was considered a closed school because it was projected to be at 91% of its State-rated capacity. (Local Board Decision).

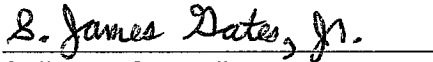
Appellants requested the transfer because they wanted their children to be at the same school for convenience and for child care purposes. Given that Jacobsville is closed to new transfers, the local board's decision was not arbitrary, unreasonable or illegal.

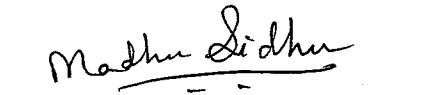
The decision of the Anne Arundel County Board of Education is hereby affirmed.

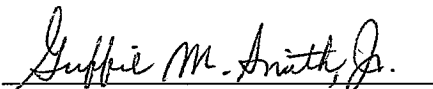

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October 27, 2009